

Thursday, January 12, 2006

'3 strikes' reform, Part 2

A DA and a defense attorney have a better idea

When California voters narrowly rejected Proposition 66, which would have reformed the "three strikes" law in 2004, most observers figured that the idea of reforming this law was dead for the foreseeable future. Even though reform had polled well in the early going, a barrage of TV ads, some featuring Gov. Arnold Schwarzenegger, convinced enough people to vote against it that it was defeated. A second chance seemed unlikely.

That would have been unfortunate. California's three-strikes law is the most punitive in the United States, unique in that the third "strike," (a third felony conviction for violent offenders), can bring a sentence of 25 years to life for any felony, not just a serious or violent felony. When they approved the original initiative in 1994, most voters thought the idea was to get violent felons off the street for good, not just any felon.

Not only does the law in its present form create instances of injustice, it is going to be extremely expensive for California taxpayers. In a prison system already overcrowded, they are paying to keep in prison until they die a large number of people who have not committed violent crimes recently or have become too old to pose a serious threat of violence.

Now it looks as if voters will have a second chance to consider whether that is good public policy. Los Angeles County District Attorney Steve Cooley - who opposed Prop. 66 - and defense attorney Brian Dunn, of the late Johnnie Cochran's firm - who supported 66 - have co-authored a reform measure and presented it to state Attorney General Bill Lockyer. Once he has analyzed it and approved a title and summary, petitions could be available for signature as early as next month for a possible November ballot measure.

The new reform measure is less far-reaching than Prop. 66 was. Mr. Cooley explained to us that it would be limited to third-strikers whose third strike was not a serious or violent felony (some narcotics and gun offenses would still trigger enhanced sentences). That would make a limited number of inmates eligible for resentencing. One of the concerns about Prop. 66 had been that it would tie up a significant amount of court time conducting new trials and end up putting back on the street a large number of people convicted of violent crimes.

Mr. Cooley said the attorney general's office is expected to complete its work by late February. He and his colleagues are lobbying the Legislature to place it on the ballot and laying the groundwork to raise money for signature gathering if that doesn't happen.

We'll need to study the new reform measure more carefully before deciding whether to endorse it. But we welcome this new and somewhat surprising - how often do DAs and defense attorneys collaborate politically? - effort to change this well-intentioned law that has had unfortunate unintended consequences.

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